

A. G. Contract No. KR97 1441TRN  
COT Contract No. 0139-98  
ADOT ECS File: JPA 97-102  
Project: H4704 01X  
Section: Davis-Monthan Air Force  
Base Runway Extension

INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF TUCSON

THIS AGREEMENT is entered into 10 October, 1997,  
pursuant to Arizona Revised Statutes Section 11-952 through 11-954 as  
amended, between the STATE OF, acting by and through its DEPARTMENT OF  
TRANSPORTATION (the "State") and the CITY OF TUCSON, acting by and  
through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 and 28-112 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The Arizona legislature, through the provisions of senate bill 1062, a copy of which is attached hereto and made a part hereof, has made funds available in the amount of \$9,800,000.00 through the state Department of Transportation, to the City to assist in land acquisition and clearance and in roadway relocation to provide for extension of the Davis-Monthan Air Force Base (DMAFB) aircraft runway. In accordance with the requirements of the appropriation, the joint legislative budget committee has reviewed and approved the monies and the expenditure thereof. This agreement is to define the terms of the transfer of the funds from the State to the City.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 21961  
Filed with the Secretary of State  
Date Filed: 10/10/97  
Petrey Bayless  
Secretary of State  
By: Wicky Greenwood

## II. SCOPE

### 1. The City will:

a. Invoice the State, in a total amount not to exceed \$9,800,000.00.

b. Provide the required \$9,800,000.00 match in funds or in-kind services.

c. Apply funding to project activities in strict accordance with the intent of the legislative appropriation and applicable Federal and State laws, rules and regulations.

### 2. The State will:

Provide the City funds within 30 days after receipt and approval of an invoice, in the amount of \$9,800,000.00 for activities performed directly relating to the extension of the DMAFB runway extension project.

## III. MISCELLANEOUS PROVISIONS

1. The only interest of the Arizona Department of Transportation in this agreement is to convey pass through funds for the use and benefit of the City by reason of State and Federal law under which funds for the activities are authorized to be expended.

2. This agreement shall remain in force and effect until completion of said activities and payment; provided, however, that this agreement may be cancelled at any time prior to the commencement of performance, upon thirty (30) days written notice to the other party.

3. Should the work contemplated under this agreement be completed at a lower cost than the paid amount, or for any other reason should any of these funds not be expended, a proportionate amount of the funds provided shall be reimbursed to the State.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party relating to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

City of Tucson  
Economic Development Director  
PO Box 27210  
Tucson, AZ 85726-7210

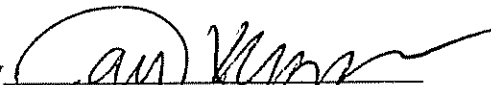
9. Attached hereto and incorporated herein is the written determination of legal counsel that the parties are authorized under the laws of this State to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

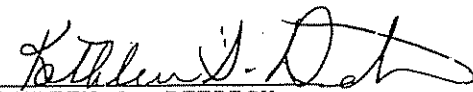
CITY OF TUCSON

STATE OF ARIZONA  
Department of Transportation

By   
GEORGE MILLER  
Mayor

By   
JAY KLAGGE, Director  
Transportation Planning

ATTEST

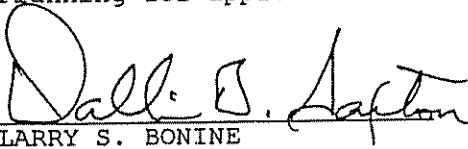
By   
KATHLEEN S. DETRICK  
City Clerk

25jun

RESOLUTION

BE IT RESOLVED on this 26th day of June 1997, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Tucson for the purpose of defining responsibilities for the conveying \$9,800,000.00 in legislative pass through funds for the design, construction and maintenance of improvements to the Davis-Monthan AFB runway extension.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Director of Transportation Planning for approval and execution.

  
for LARRY S. BONINE  
Director

ADOPTED BY THE  
MAYOR AND COUNCIL  
SEP 08 1997

RESOLUTION NO. 17786

~~RELATING TO INTERGOVERNMENTAL AGREEMENTS; APPROVING AND~~  
AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH  
THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR 9.8 MILLION  
DOLLARS IN FUNDING FOR THE DAVIS MONTHAN RUNWAY PROJECT.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE  
CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Intergovernmental Agreement with  
the Arizona Department of Transportation for 9.8 Million  
Dollars in funding for the Davis Monthan Runway project,  
attached hereto, is approved.

SECTION 2. The Mayor is hereby authorized and  
directed to execute the said Intergovernmental Agreement for  
and on behalf of the City of Tucson and the City Clerk is  
directed to attest the same.

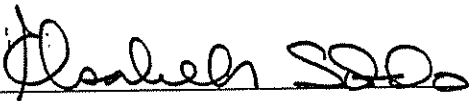
SECTION 3. The various City officers and  
employees are authorized and directed to perform all acts  
necessary or desirable to give effect to this resolution.

SECTION 4. WHEREAS, it is necessary for the  
preservation of the peace, health and safety of the City of  
Tucson that this resolution become immediately effective, an  
emergency is hereby declared to exist and this resolution  
shall be effective immediately upon its passage and  
adoption.

APPROVAL OF THE TUCSON CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF TUCSON and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 25 day of Aug, 1997.



City Attorney

5. Create a data base of current ownership and date of purchase of property in the vicinity of a military airport on which the day-night average sound level is sixty-five decibels or higher.

6. On or before December 15, 1995, and annually thereafter, report on the progress of the committee to the legislature. All reports issued to the legislature shall be available to the public.

E. A political subdivision shall notify the committee of any residential development that is proposed on property that is within its boundaries, that is in the vicinity of a military airport and on which the day-night average sound level is sixty-five decibels or higher.

#### Sec. 8. Purpose

The purpose of the Arizona military airport preservation committee is to encourage the preservation of the long-term viability of military airports and the private property rights of property owners in the vicinity of military airports.

#### Sec. 9. Appropriation

A. The sum of \$2,300,000 is appropriated in fiscal year 1995-1996 from the state general fund to the department of transportation to assist in land acquisition and clearance and in roadway relocation to provide for extension of the Davis-Monthan air force base runway. Before expenditures of the monies, the city of Tucson and Pima county shall together match the appropriated amounts and the joint legislative budget committee shall receive written correspondence confirming the federal government's commitment to expend federal monies for its portion of the runway extension at Davis-Monthan air force base.

B. The sum of \$4,300,000 is appropriated in fiscal year 1996-1997 from the state general fund to the department of transportation to assist in land acquisition and clearance and in roadway relocation to provide for extension of the Davis-Monthan air force base runway. Before expenditures of the monies, the city of Tucson and Pima county shall together match the appropriated amounts.

C. The sum of \$3,200,000 is appropriated in fiscal year 1997-1998 from the state general fund to the department of transportation to assist in land acquisition and clearance and in roadway relocation to provide for extension of the Davis-Monthan air force base runway. Before expenditures of the monies, the city of Tucson and Pima county shall together match the appropriated amounts.

D. The sum of \$200,000 is appropriated in fiscal year 1995-1996 from the state general fund to the Arizona military airport preservation committee for the purpose of conducting engineering surveys and related expenses to assist in the development of legal descriptions for land within the noise contours of Luke air force base and the marine air corps station—Yuma.

E. The appropriations made in subsections A, B and C of this section are exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

F. The department of transportation shall retain all monies appropriated under this section until the federal government makes a final determination in 1995 to continue the approximate current level of personnel and activities at Davis-Monthan air force base. After this final determination is made, the monies shall be made available as prescribed in subsections A, B and C of this section. If the federal government significantly reduces the current level of personnel or activities at Davis-Monthan air force base the appropriations in subsections A, B and C of this section revert to the state general fund.

G. All unexpended and unencumbered monies that are appropriated pursuant to subsections A, B and C of this section after completion of the runway relocation and that remain due to offsetting federal monies or reductions from any other source,



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS

ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

TRN Main: (602) 542-1680

Direct: (602) 542-8837

Fax: (602) 542-3646

MAIN PHONE : 542-5025

TELECOPIER : 542-4085

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR97-1441TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATE October 2, 1997.

GRANT WOODS

Attorney General

JAMES R. REDPATH

Assistant Attorney General

Transportation Section

JRR:et/8023

Enc.